

### **REMARKS**

The above amendments and the following remarks are fully and completely responsive to the Office Action dated April 20, 2004.

Claims 1-17 are pending. Claims 1, 2 and 8-17 are rejected. Claims 3-7 are allowed. Claims 2, 5, 7-8, 15 and 17 are amended and claims 18-21 are added. No new matter is added.

### **Claim Objections**

Claim 5 is objected to. The objection is overcome with the above amendment to claim 5. Applicants request reconsideration and withdrawal of the objection to claim 5.

### **Rejection under 35 U.S.C. § 101**

Claim 15 is rejected under 35 USC §101 because the claimed recitation of a use without setting forth any steps involved in the process, result is asserted to in an improper definition of a process, i.e., results in a claim which is not a proper process claim.

Applicants respectfully submit that the objection is overcome with the above amendment to claim 15. Accordingly, Applicants request reconsideration and withdrawal of the rejection of claim 15 under 35 U.S.C. §101.

### **Rejection under 35 U.S.C. § 112, Second Paragraph**

Claims 7 and 15 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter, which Applicants regard as the invention. Specifically, the Office Action asserts that claim 7

has insufficient antecedent basis for the limitation reciting, "the concentration of conductive salt". Also, the Office Action asserts that claim 15 provides for the use of the electrolytic composition, but, since the claim is asserted to not set forth any steps involved in the method/process, it is unclear what method/process applicants are intending to encompass.

Applicants respectfully submit that the rejection is overcome with the allowed amendments to claims 7 and 15. Accordingly, Applicants request reconsideration and withdrawal of the rejection under 35 U.S.C. § 112, second paragraph, of claims 7 and 15.

#### **Rejection under 35 U.S.C. § 102**

Claim 17 is rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,403,539 to Marchionni et al. ("Marchionni" or the "539 Patent").

To the extent that the anticipation rejection still applies to currently amended claim 17, Applicants respectfully traverse the anticipation rejection. Claim 17 has been amended to depend from claim 19. Currently amended claim 17, which is directed to Lithium salts of perfluoropolyether additives of formula (I), is novel over Marchionni in that Marchionni specifically discloses the perfluoropolyethers of formula (I) wherein M is selected from Na, K, NR<sub>4</sub>. See, Marchionni, column 6, lines 53-54.

### **Rejection under 35 U.S.C. § 103(a)**

Claims 1, 2 and 8-16 are rejected under 35 U.S.C. § 103(a) as being obvious over Marchionni in view of U.S. Patent No. 5,882,810 to Mussell et al. ("Mussell").

Applicants have attached hereto a declaration of Bernard de Laguiche under 37 CFR 1.132 that demonstrates that the present application and Marchionni were commonly owned at the time of the invention. Thus, Marchionni is not prior art to the present invention.

Accordingly, Applicants traverse the obvious rejection based on the fact that Mussell does not disclose each and every element of the presently claimed invention. Applicants note that Mussell, which is directed to an electrode assembly having an ion exchange and at least two active layers, is far from suggesting improving the weattability of electrochemical systems while maintaining a high conductivity by using the present lithium salt of perfluoropolyethers compound of formula (I) in place of know lithium salt of perfluorinated imides. Accordingly, reconsideration and withdrawal of the obviousness rejection of claims 1, 2 and 8-10 are respectfully requested.

### **Double Patenting**

Claims 1, 2 and 8-17 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6, 14-16 of U.S. Patent No. 6,403,539 to Marchionni in view of Mussell.

Applicants believe that this rejection is moot in view of the submission herewith of a duly executed terminal disclaimer with the respect to the '539 patent. Applicants thus request withdrawal of the rejection.

### **Conclusion**

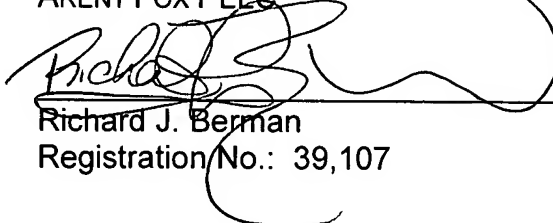
In view of the foregoing, reconsideration of the application, withdrawal of the outstanding rejections, allowance of claims 1-21 and the prompt issuance of a Notice of Allowability are respectfully solicited.

Should the Examiner believe anything further is desirable in order to place this application in better condition for allowance, the Examiner is requested to contact the undersigned at the telephone number listed below.

In the event this paper is not considered to be timely filed, Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension, together with any additional fees that may be due with respect to this paper, may be charged to counsel's Deposit Account No. 01-2300.

Respectfully submitted,

ARENT FOX PLLC



Richard J. Berman  
Registration No.: 39,107

Customer No.: **004372**

1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036-5339

Telephone No.: 202-857-6000  
Facsimile No.: 202-638-4810

RJB/RKC/RN/ccd